

1 SHEPPARD MULLIN RICHTER & HAMPTON LLP  
2 A Limited Liability Partnership  
3 Including Professional Corporations  
4 GUY N. HALGREN, Cal. Bar No. 115732,  
5 SAMANTHA D. HARDY Cal. Bar No. 199125  
6 MATTHEW S. DENTE, Cal. Bar No. 241547  
7 501 West Broadway, 19th Floor  
San Diego, California 92101-3598  
Telephone: 619-338-6500  
Facsimile: 619-234-3815  
ghalgren@sheppardmullin.com  
shardy@sheppardmullin.com  
mdente@sheppardmullin.com

8 Attorneys for Defendant  
9 THE PEPSI BOTTLING GROUP, INC.

15 JOSE CASTELLANOS.

16 Plaintiff,

17 v.

18 THE PEPSI BOTTLING GROUP, AND  
DOES 1 THROUGH 100, INCLUSIVE,

### Defendants.

Case No. c 07-03961 WHA

**STIPULATION AND [PROPOSED]  
ORDER REMANDING CASE TO  
STATE COURT**

[Complaint Filed: June 26, 2007]

Trial Date: November 3, 2008

24 IT IS HEREBY STIPULATED by and between plaintiff Jose Castellanos  
25 ("Plaintiff") and defendant The Pepsi Bottling Group, Inc. ("PBG"), through their  
26 respective attorneys of record, as follows:

1           WHEREAS on August 1, 2007, Defendant The Pepsi Bottling Group, Inc.,  
2 filed a Notice of Removal of Action pursuant to 28 U.S.C. § § 1332(d) and 1441(a)-(c)  
3 with the United States District Court for the Northern District of California;

4

5           WHEREAS, at the time of removal, PBG analyzed Plaintiff's Complaint and  
6 determined it would be objectively reasonable to conclude the damages sought would  
7 exceed the \$5,000,000 amount in controversy requirement for the Class Action Fairness  
8 Act ("CAFA");

9

10          WHEREAS, since the time of removal, counsel for Plaintiff and PBG have  
11 met several times to discuss this matter, including jurisdictional issues;

12

13          WHEREAS, Plaintiff has represented to PBG that there is insufficient  
14 information to conclude that the damages will exceed \$5,000,000;

15

16          WHEREAS, this court may not exercise subject matter jurisdiction over this  
17 class action based on CAFA when the matter in controversy is less than \$5,000,000,  
18 exclusive of interest and costs; and

19

20          WHEREAS, there is no other basis for subject matter jurisdiction over this  
21 class action.

22

23          THEREFORE, the parties stipulate as follows:

24

25          1.        Although PBG had an objectively reasonable basis for concluding  
26 Plaintiff's Complaint sought damages in excess of \$5,000,000 and for removing this matter  
27 to the District Court, CAFA's requirements are not met and were not met at the time of  
28 removal.

2. This matter will be remanded back to state court.

3           3. All deadlines and dates for discovery served and depositions noticed  
4 while this matter was pending before the District Court will be continued to the following  
5 dates, subject to additional extensions as agreed between the parties:

- (a) All noticed depositions will be rescheduled for sometime after January 18, 2008.
- (b) All responses to written discovery will be due January 18, 2008, with the exception of the discovery referenced in subsection (c) below.
- (c) PBG's response to Special Interrogatory No. 9 will be due December 21, 2007.

14           4. This Stipulation will not in any way limit or cap Plaintiff's damages,  
15 although PBG does not believe the damages exceed \$5,000,000.

17 | DATED: November 28, 2007

## RIGHETTI LAW FIRM, P.C.

By /s/ John Glugoski

JOHN GLUGOSKI  
MATT RIGHETTI

Attorneys for Plaintiffs  
JOSE CASTELLANOS

1 DATED: November 28, 2007

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3

4 By /s/ Samantha Hardy  
5 GUY N. HALGREN  
6 SAMANTHA D. HARDY  
7 MATTHEW S. DENTE

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

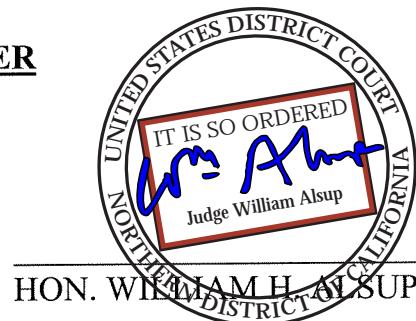
28

Attorneys for Defendant THE PEPSI BOTTLING  
GROUP, INC.

**ORDER**

IT IS SO ORDERED.

Dated: November 29, 2007



HON. WILLIAM H. ALSUP